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SUBJECT: Senegal's Local Elections: Court Ruling is Fishy

REF: DAKAR 173

¶1. (SBU) Summary: Dakar's Court of Appeals ruled on February 6 that the ruling Democratic Party of Senegal (PDS) could compete in local elections in ten rural communities despite its failure to comply with a deadline set by the Electoral Code. The Autonomous National Electoral Commission (CENA) and the coalition of opposition parties expressed frustration and questioned the independence of the judiciary after the ruling. The opposition parties announced that they will set up "anti-fraud brigades" to counter the ruling party. End Summary.

An Alleged Lack of "Sufficient evidence"

¶2. (SBU) A panel of judges at the Court of Appeals ruled that there was not enough evidence that documents signed by local GOS authorities allowing the ruling coalition to hand in their lists after a midnight January 20 deadline had passed were fraudulent. This position divided the twenty-four members of the Court. A judge who was involved in the secret deliberations told Embassy that the discussion was very tense and polarized. He noted that subsequent criticisms of the ruling in the media had shaken the members of the court.

Judges Try to Run Out the Clock

¶3. (SBU) The opposition now wants to appeal the case to the Supreme Court, but six days after its ruling the Appeals Court has yet to publish an official decree. Without this document, it is impossible to appeal to the Supreme Court. The opposition fears that the Court of Appeals is deliberately delaying the publication of their ruling because they know they have a weak argument. The Court of Appeals is headed by Cheikh Tidiane Diakhate who has a reputation for taking orders from the presidency. For example, during the trial of former Prime Minister Idrissa Seck before the High Court of Justice, he is widely believed to have been instrumental in guiding the investigative committee towards a pre-determined, government-approved, political settlement.

The GOS pressured local authorities

¶4. (SBU) Throughout the country, the government pressured local authorities to ignore electoral deadlines; otherwise the PDS would have failed to have candidates in several councils where they were handicapped by fierce internal rivalries. In the case of the departments of NDindi and NDoulo, the representative of the PDS purposefully missed the deadline to take revenge against party leaders who failed to include members of his group among the candidates. A senior leader of the And-Jef/African Party for Democracy and Socialism (AJ/PADS), a party allied to Wade with two cabinet positions, told poloff that, in his city of Kaolack, he decided to run under the banner of his own party, but to his surprise, the identity documents of his candidates were stolen at

the office of the court clerk in Kaolack. Faced with the prospect of missing the deadline, he alerted the media and wrote to the Minister of Interior. The latter received him and instructed the Governor and Prefects of Kaolack to ignore the deadline and accept his list of candidates.

Forged lists

15. (SBU) In five areas in the populous Pikine and Guediawaye suburbs of Dakar, it was disgruntled PDS members who went to the opposition to denounce the fact that their names had been added to the PDS list without their consent. They accused the Chair of the National Assembly, Mamadou Seck, of being the author of the fraud. To be a candidate one has to submit a signed statement as well as a court record. They indicated that they had neither signed nor submitted any such papers. That case will be heard by the Court of Appeals of Dakar on February 12.

COMMENT

16. (SBU) Local elections are five weeks away, but many pundits would not be surprised if Wade postpones them. There has been a systematic violation of the Electoral Code by the Ministry of Interior and the Court of Appeals has, so far, been turning a blind eye. On top of this, a powerless and financially weak National Electoral Commission is being ignored by government authorities. Paradoxically, according to members of the PDS and its coalition partners, Wade has decided to tacitly approve of party/coalition dissidents to compete separately so that they can capture the votes of unhappy electors who wish to punish the PDS. It is expected that

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after the elections, these dissidents will come back to the fold one way or another, thus ensuring PDS control of local governments.
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